

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E) for a Permit to Construct Electrical Facilities With Voltages Between 50 kV and 200 kV: Viejo System Project

Application 03-03-043
(Filed March 21, 2003)

**ADMINISTRATIVE LAW JUDGE'S RULING
REGARDING THE NOTICE OF INTENT TO
CLAIM COMPENSATION OF NOPE, INC.**

I. Summary

This ruling responds to the Notice of Intent (NOI) filed by NOPE, Inc. (NOPE) on April 23, 2004. This ruling addresses the requirements of the Pub. Util. Code § 1804.¹ In consultation with the Assigned Commissioner, I find that NOPE is eligible for compensation in this proceeding. No party opposed such a finding. A finding of eligibility for compensation does not guarantee an award of compensation, which will ultimately be based on NOPE's demonstration that it made substantial contributions to the Commission's order or orders in this proceeding.

¹ All statutory references are to the Public Utilities Code.

II. NOI Requirements

A. Timely Filing

Under § 1804(a)(1), “[a] customer who intends to seek an award under this article shall, within 30 days after the prehearing conference is held, file and serve on all parties to the proceeding a notice of intent to claim compensation.”

The first prehearing conference in this proceeding occurred on March 25. NOPE filed its NOI within 30 days of that date as required.

B. Customer Status

An intervenor may be eligible for compensation if it is a customer, as defined in § 1802(b), and one of the following: (1) a participant representing consumers, (2) a representative authorized by a customer, or (3) a representative of a group or organization that is authorized by its bylaws or articles of incorporation to represent the interests of residential ratepayers.²

NOPE states it is a non-profit corporation authorized by its bylaws to represent the interests of utility customers in the area. NOPE provided a copy of its bylaws to confirm its status and thereby fulfills the requirement to show that it is a customer eligible for compensation.

C. Significant Financial Hardship

Customers for whom participation or intervention would impose a significant financial hardship may receive intervenor compensation.

Section 1804(a)(2)(B) allows the customer to include a showing of significant

² “When filing its Notice of Intent, a participant should state how it meets the definition of customer: as a *participant* representing consumers, as a *representative* authorized by a customer, or as a representative of a *group or organization* that is authorized by its bylaws or articles of incorporation to represent the interests of residential customers.” D.98-04-059, *mimeo.* at 28-29 (emphasis in original).

financial hardship in the NOI. Section 1802(g) defines “significant financial hardship.”

“Significant financial hardship” means either that the customer cannot without undue hardship afford to pay the costs of effective participation, including advocate’s fees, expert witness fees, and other reasonable costs of participation, or that, in the case of a group or organization, the economic interest of the individual members of the group or organization is small in comparison to the costs of effective participation in the proceeding. Alternatively, the customer may make the required showing in the request for an award of compensation.

NOPE states its finances are speculative and depend on the voluntary donations of community members and utility customers. NOPE’s financial liabilities are assumed by its officers. It states its intent to demonstrate significant financial hardship at the time it requests compensation in this proceeding.

D. Nature and Extent of Planned Participation

Section 1804(a)(2)(A)(i) requires NOIs to include a statement of the nature and extent of the customer’s planned participation in the proceeding to the extent this can be predicted.

NOPE has already filed a prehearing conference statement, attended a prehearing conference and filed comments on the draft mitigated negative declaration published on the Viejo System Project. NOPE expects to be involved in all aspects of the proceeding

E. Itemized Estimate of Compensation

Section 1804(a)(2)(A)(ii) requires that NOIs include an itemized estimate of the compensation the customer expects to receive. NOPE states it is unclear at this time how much additional work it will undertake in this proceeding and its

future participation will depend upon how the Commission conducts the proceeding and its duration. Assuming the proceeding may continue for two years, NOPE estimates its participation could cost as much as \$350,000. Of this, NOPE estimates approximately 800 hours of attorney time at \$300 an hour and \$50,000 in expert fees.

IT IS RULED that:

1. NOPE, Inc. has met the eligibility requirements of Pub. Util. Code § 1804(a) and is eligible for compensation in this proceeding.
2. NOPE is a customer as that term is defined in § 1802(b) and is a non-profit organization authorized to represent customers of applicant.

Dated May 11, 2004, at San Francisco, California.

/s/ KIM MALCOLM

Kim Malcolm
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Regarding the Notice of Intent to Claim Compensation of NOPE, Inc. on all parties of record in this proceeding or their attorneys of record.

Dated May 11, 2004, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.